IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 150 of 1996

Between:

Smt. Harjana Imamakka W/o. Peddanarayanappa
Kothapalli Village, Hampa (Hamlet), Maddikera Mandal,

Kurnool District.

..... PETITIONER

AND

1 Mandal Revenue Officer, Maddkera, Kurnool District.
2 Revenue Divisional Officer, Adoni, Kurnool District.
3 The Collector, Kurnool, Kurnool District.
4 Bandari Thrumalaiah S/o. B. Lachanna
Maddikera Village, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order or direction more particularly in the nature of writ of Mandamus declaring the proceedings of the 1st respondent in Rc.B.815/89 dated 3-7-92 as confirmed by the 2nd respondent in D.Dis.2122/92 dated 26-3-94 as illegal as it is conformity with the provisions of A.P. Assigned Lands (Prohibition of Transfers) Act 1977.

Counsel for the Petitioner: Mr.Chilamkuri Hanumantha Rayudu

Counsel for Respondent Nos.1 to 3: GP FOR REVENUE

Counsel for Respondent No.4: Mr. O. Manohar Reddy (not present)

The Court made the following :

ORDER:

Grand father of the fourth respondent, an assignee, sold Acs.7.72 cents in S.No.515 of Yadavalli Village to the petitioner for Rs.1,000/- under a registered sale deed dated 2.9.1968 and put her in possession thereof. Subsequently, after the death of his grand father and father, fourth respondent filed a petition for restoration of lands invoking the provisions of A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 ('the Act'). In that petition, petitioner filed his

counter contending that inasmuch as she is a bona fide landless poor purchaser for valuable consideration, fourth respondent is not entitled to restoration of the land purchased by her in view of Section 3(5) of the Act. After considering the rival contentions, the Mandal Revenue Officer on the basis that husband of the petitioner has some land, negatived the contention of the petitioner that she is entitled to protection under Section 3(5) of the Act and ordered resumption of the land from the petitioner and the same was confirmed by the Revenue Divisional Officer. Questioning the said order, petitioner filed this petition for a declaration that the proceedings of the first respondent in Rc.B.815/89 dated 3.7.1992, confirmed by the second respondent in D.Dis.No.2122/92 dated 26.3.1994 are illegal and arbitrary.

The main contention of the learned counsel for petitioner is that since both the Mandal Revenue Officer and the Revenue Divisional Officer did not go into the question whether petitioner is a 'landless poor person' within the meaning of the Act or not, and have also not considered the contention of the petitioner that she is not the wife but is the 'basvi' of Narayanappa, the orders impugned are not sustainable, and contended that in view of Section 3(5) of the Act, lands in possession of the petitioner cannot be resumed, by placing strong reliance on **Abdul Khayoom v. The Mandal Revenue Officer, Amrabad Mandal and another**.

There is no representation on behalf of the fourth respondent.

The contention of the learned Government Pleader is that since the petition submitted by the petitioner before the Collector was rejected, there are no grounds to interfere with the impugned order of the Mandal Revenue Officer and the Revenue Divisional Officer.

Since petitioner, who purchased the land prior to the coming into force of the Act, from the assignee, is claiming protection under Section 3(5) of the Act, the important point to be considered is whether petitioner is a landless poor bona fide purchaser or not.

Section 2(3) of the Act defines 'Landless poor' person as 'a person who owns an extent of land not more than 1.011715 hectares (two and half acres) of wet land or 2.023430 hectors (5 acres) of dry land or such other

extent of land as has been that may be specified by the Government in this behalf from time to time and who has not other means of livelihood.'

The orders impugned do not show that that aspect was considered by the Mandal Development Officer and Revenue Divisional Officer. Therefore, the Writ Petition is disposed of with a direction to the first respondent to consider the question whether petitioner is a bona fide landless poor person for valuable consideration, within the meaning of Section 3(5) of the Act and give specific findings thereon after giving an opportunity to adduce evidence to both the parties.

Accordingly, the Writ Petition is disposed of. No costs.

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C.Y. Somayajulu, J.

13th July, 2005

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To

1 Mandal Revenue Officer, Maddkera, Kurnool District.
2 Revenue Divisional Officer, Adoni, Kurnool District.
3 The Collector, Kurnool, Kurnool District.
4 Bandari Thrumalaiah S/o. B. Lachanna
Maddikera Village, Kurnool District.

5 Two CCs to G.P. for Revenue, High Court Buildings,

Hyderabad.

6 2 CD copies.